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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Contemporary
Forms of Slavery
Twenty-first session
17-26 June 1996
Item 5 (c) of the provisional agenda

REVIEW OF DEVELOPMENTS IN THE FIELD OF CONTEMPORARY FORMS OF SLAVERY AND MEASURES TO PREVENT AND REPRESS ALL CONTEMPORARY FORMS OF SLAVERY

TRAFFIC IN HUMAN ORGANS AND TISSUES

Report of the Secretary-General pursuant to Sub-Commission resolution 1995/16

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Introduction

1. In its resolution 1995/16, the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested the Secretary-General to invite again all Governments, United Nations organizations and bodies, including the United Nations Children's Fund, the specialized agencies, in particular the World Health Organization, the International Criminal Police Organization and all relevant non-governmental organizations, including scientific and medical associations, to pursue their investigation of allegations that children are victims of, or even killed for, the removal of organs for the purposes of commercial transplants and to indicate any measures taken to counteract the practice wherever it exists and to present a report to the Working Group at its twenty-first session.

2. Consequently, the Secretary-General sent on 28 February 1996, notes verbales and letters to Governments and the above-mentioned United Nations bodies and organizations. The following replies have been received so far.

I. REPLIES RECEIVED FROM GOVERNMENTS

Angola

[Original: French]
[20 May 1996]

3. No instances of trafficking in organs or of child victims of, or killed for, organ removal for commercial transplant purposes have ever come to the attention of the Angolan Government.

Japan

[Original: English]
[29 May 1996]

4. The Government of Japan stated that there had been no instance in Japan of the sale, kidnapping, trafficking or murder of children for the purpose of transplanting organs. If such a case should arise, it would be punished by the following punitive provisions of law, which provided adequate safeguards:

(a) Penal Code:

Article 204 (Bodily injury: imprisonment with labour for not more than 10 years or a fine of not more than 500,000 yen or a minor fine);

Article 224 (Kidnapping or abductions of minors: imprisonment with labour for not less than three months nor more than five years);

Article 225 (Kidnapping or abduction for profit: imprisonment with labour for not less than 1 year nor more than 10 years);

Article 226 (Abduction for transportation to a foreign country, etc.: imprisonment with labour for a limited term of not less than two years);

Article 227, paragraph 1 (Assistance in kidnapping or abduction: imprisonment with labour for not less than three months nor more than five years);

Article 227, paragraph 3 (Receiving a kidnapped or abducted person: imprisonment with labour for not less than six months nor more than seven years);

(b) Child Welfare Law:

Article 34, paragraph 1, item (7); article 60, paragraph 2 (Act of transferring the custody of a child (under 18 years of age) to a person who is liable to commit an act violating punitive laws: imprisonment with labour for not more than one year or a fine of not more than 300,000 yen).

Philippines

[Original: English]
[29 May 1996]

5. The Government of the Philippines stated that while there had been newspaper reports in the past of the sale of children's organs, investigations had revealed that the allegations could not be confirmed. The National Bureau of Investigation (NBI) had concluded that the news report might have been a rehash of an earlier report, in 1988-1989, concerning a woman from Makat, Metro-Manila who was accused of child trafficking involving 30 babies. The NBI also stated that she had not been prosecuted because Republic Act 7610 (the law on child abuse, exploitation and discrimination) was not then yet in effect, having been enacted only in 1992.

6. The following measures had been undertaken in order to counteract the practice of removing children's organs wherever it existed:

(a) Republic Act 7610 (an act providing stronger deterrence and special protection against child abuse, exploitation and discrimination) was a special measure to protect minors from all kinds of abuse, exploitation and discrimination;

(b) The Committee for the Special Protection of Children had been created by President Ramos under Executive Order 275 on 14 September 1995. The body served as an action committee for the special protection of children from all kinds of abuse, exploitation and other conditions prejudicial to their development.

Saint Kitts and Nevis

[Original: English]
[15 May 1996]

7. The Government of St. Kitts and Nevis replied that there was no specific law regulating organ transplants in the Federation of St. Kitts and Nevis. However, the sale of children's organs was clearly contrary to the spirit of

various existing laws, including: the Juvenile Act, CAP.39 (protecting juveniles and children from abuse and other forms of cruelty), the Status of Children Act No.19 of 1983 (removing illegitimacy from children born out of wedlock and giving protection to all children against disinheritance by their fathers); the Constitution of St. Kitts and Nevis, which protected the rights of the child, and enshrined rights enunciated in the Convention on the Rights of the Child; and the Protection and Child Welfare Board Act 1994 (No. 6 of 1994).

8. The Protection and Child Welfare Board Act made better provision for the care and protection of children. Section 2 (c) of the Act prohibited "the loss of any limb or organ of the body of any child". Section 4 imposed a duty on persons to report child abuse to the Board or the Police Department. The issue of children sold for organ transplantation is unheard of in the Federation of St. Kitts and Nevis, although 42 per cent of the population of about 43,000 is below the age of 20.

UNITED NATIONS ORGANIZATIONS AND BODIES

World Health Organization

[Original: English]
[6 May 1996]

9. The Chief of the WHO Health Legislation Unit expressed the view that the updating of the WHO Guiding Principles on Human Organ Transplantation would not necessarily achieve the purpose of protecting human rights. In her view, it would appear to be more effective to elaborate a new instrument under the auspices of the United Nations in close cooperation with WHO.

10. The WHO Advisory Committee on Health Research had held its thirty-third session in Geneva from 17-20 October 1995. On that occasion, the Committee had recommended that a task force on organ transplantation should be set up by WHO, with a view to examining various issues in the field of organ transplantation. Such a task force would bring together recognized experts in the field, as well as representatives of relevant intergovernmental organizations and non-governmental organizations. It had originally been contemplated that the Task Force would hold its first meeting in June 1996, but, for technical reasons, the meeting was now scheduled for October 1996, immediately prior to the thirty-fourth session of the Advisory Committee on Health Research. One of the items on the proposed agenda was a review and assessment of the 1991 Guiding Principles, and the substantive provisions of Sub-Commission resolution 1995/16 and Commission resolution 1995/27 would certainly be made available to members of the Task Force and others attending the meeting.

11. WHO was continuing to monitor national laws and regulations on the issue of organ transplants. A recent example was the French Decree of 16 April 1996 on the import and export of human organs, tissues and cells. Another example was the April 1996 Canton of Geneva Law on the removal and transplantation of organs and tissues.

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